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May 11, 2004

Secretary
Federal Communications Commission
Washington, D.C. 20554

**RE: Written Comments For “Advanced Communications
Capabilities” Notice Of Inquiry (FCC Docket 04-54)**

Dear Commissioners and Commission Staff,

Attached is a *corrected* copy of the Written Comments I filed shortly after midnight today in FCC Docket 04-54.

On the “Table of Contents” page, the page reference for “Identification of the Commenting Party” has been corrected from “2” to “3”.

On page 3, the phrase “In additional to my work” has been corrected to read “in addition to my work”.

No other changes have been made in the text.

I apologize for any inconvenience these corrections may cause.

Sincerely,

Don Schellhardt

**UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

Notice Of Inquiry On FCC)
Efforts To Promote “Advanced) **FCC Docket No. 04-54**
Communications Capabilities”)

**WRITTEN COMMENTS OF
DON SCHELLHARDT, ESQUIRE**

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Notice Of Inquiry On FCC)
Efforts To Promote “Advanced) **FCC Docket No. 04-54**
Communications Capabilities”)

And

(b) The directive for a Report To Congress allows the FCC to address “whether”, as well as “how”, a given technology should be encouraged by the FCC.

The FCC can, and should, be *selective* in which “advanced communications capabilities” it chooses to promote. Some technologies, and/or specified applications thereof, should receive lower priority – or, in some cases, be denied authorization completely – on the basis of such factors as:

Their relative vulnerability to disruption

Their potential for disruption of other spectrum uses

Whether they will increase levels of Electromagnetic Radiation (EMR) in the environment

And

Whether their privacy and security safeguards are relatively weak

The Report To Congress should also mention that other technologies, besides “advanced communications capabilities”, are worthy of selection by Congress for special promotion through regulatory policies.

Examples of particularly promising technologies include:

American-made alternative fuel vehicles, running on relatively clean, domestically abundant energy sources (for example: electric hybrid, natural gas)

Energy-conserving, American-made fuel cells

Solar photovoltaic and/or thermal power generation

Shielding of equipment against Electromagnetic Pulse

And

Space commercialization (including American small business operations to, from and in Low Earth Orbit)

Identification Of The Commenting Party

At present, I am a Government Relations attorney, in solo practice, and a writer.

My current clients include THE AMHERST ALLIANCE, a citizens' advocacy group for more open airwaves in general and Low Power Radio in particular, and the NATIONAL ANTENNA CONSORTIUM (NAC), which represents ham radio operators and other owners, users and/or builders of communications antennas.

In these Reply Comments, I speak only for myself. My views do not necessarily reflect the outlook of any current client, previous client or past employer.

In addition to my work in recent years for THE AMHERST ALLIANCE and NAC, I have spent nearly 3 decades, overall, working for, or attempting to influence from the outside, various arms of government. This work has involved all 3 branches of government -- Legislative, Executive, Judicial -- at both Federal and State levels.

I have extensive experience with *communications legislation and regulation*, but I also have extensive experience with *energy and environmental legislation and regulation*.

The former body of experience includes a total of 5 years as leader of THE AMHERST ALLIANCE, as well as more limited experience with NAC and with CANYON AREA RESIDENTS FOR THE ENVIRONMENT (C.A.R.E.)

The latter body of experience includes:

3 years as a Congressional aide, specializing in energy, the environment and national defense

12 years as a Government Relations attorney with the American [Natural] Gas Association, including service as A.G.A.'s Director of Legislative and Regulatory Affairs

1 year as a Policy Advisor at the U.S. Environmental Protection Agency

1 year as an energy and environmental consultant, specializing in energy utilities, with clients including the U.S. EPA and 3 State Public Utility Commissions

Limits To The Statutory Mandate

The FCC should bear in mind that Congress has issued a statutory mandate to *promote* "advanced communications capabilities". This is not necessarily a mandate to *demote* established spectrum uses.

In particular, the FCC must protect existing radio and TV spectrum uses from interference -- *especially* if that interference would affect emergency communications or other spectrum uses with a high social values.

The FCC should also remember that it has the freedom to address -- in its Report To Congress -- "whether", as well as "how", a given technology should be promoted.

Reasons For Selectivity
In Promoting Broadband Technologies

The FCC can, and should, be selective in its promotions. It can, and should, assign a lower priority to -- and, where justified, even deny authorization for -- certain “advanced communications capabilities”, based upon factors such as:

Relative vulnerability to disruption
Potential for interference with other spectrum uses
Whether they will increase levels of Electromagnetic Radiation in the environment
And
Whether their privacy and security safeguards are relatively weak

Other Technologies
Worthy Of Promotion By Congress

The FCC should also note, in its Report To Congress, that other technologies may be worthy of similar promotional efforts through regulatory policies.

Other promising American technologies -- which could improve the balance of trade, and/or create American jobs, and/or reduce pollution, and/or increase national security, include the following:

Alternative fuel vehicles, running on relatively clean, domestically abundant
energy sources (for example: electric hybrid, natural gas)
Energy-conserving, American-made fuel cells
Solar photovoltaic and/or thermal power generation
Shielding of equipment against Electromagnetic Pulse
And
Space commercialization (including American small business
operations to, from and in Low Earth Orbit)

CONCLUSIONS

For the reasons set forth herein, I urge the FCC to shape its actions in accordance with the observations contained herein.

Respectfully submitted,

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Dated: _____
May 10, 2004